

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8047 of 1996

And

Special Civil Application No.8048 of 1996

And

Special Civil Application No.8053 of 1996

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Points Nos.1 to 5 - No

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KAMLABEN BECHARBHAI PATEL . ETC.

Versus

COMPETENT OFFICER AND DEPUTY COLLECTOR (ULC)

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Appearance:

MR JITENDRA M PATEL for Petitioners in all 3 petitions.

Mr.T.H.Sompura,AGP. for Respondent No. 1, 2, 3

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 24/12/96

ORAL JUDGEMENT

Heard learned Advocates for the parties.

Rule returnable today.

Learned Assistant Government Pleader

Mr.T.H.Sompura waives service of Rule on behalf of the respondents. The petitioners in these three petitions are residents of village Atladra of Vadodara District who own several pieces of lands which are situated within the Vadodara Urban Agglomeration. Said lands are used for agricultural purposes for a long time. Under the development plan sanctioned by the Government in the year 1983, the said lands have been included in the residential zone and thus same are treated as the vacant lands in the hands of the respective petitioners for the purpose of Urban Land (Ceiling & Regulation) Act, 1976.

Learned Advocate Mr.Patel appearing for the petitioners has submitted that these lands were agricultural lands and were being used as agricultural lands on the date of the commencement of the Act. He has relied upon the judgment of the Hon'ble Supreme Court in the matter of Atiya Mohamedi Begum vs. State of U.P. reported in AIR 1993 SC 2465 and has submitted that the development plan having become effective after the date of the commencement of the Act, the agricultural lands which were hitherto excluded from the holding of the petitioners could not have been considered as the holding of the vacant land by the petitioners. It has been observed by the learned Tribunal that the earlier lands were in the residential zone when the lands were exempted under section 20 of the Act in the year 1979. Be it noted that the relevant date is the date of the commencement of the Act i.e. 17-2-76 and the Tribunal ought to have inquired whether the said lands were covered in any of the development plan on the date of the commencement of the Act, and if covered, whether they were situated within the zone other than for the purpose of agriculture. The Tribunal thus appears to have erred in relying on 1979 documents. In that view of the matter, the judgment and order passed by the Tribunal in appeal preferred by the concerned petitioners are hereby quashed and set aside. The matter is remanded to the competent authority for a limited purpose to find out whether the lands in question were covered in any of the development plan on the date of the commencement of the Act and whether they were specified in such development plan for a purpose other than agriculture.

Petitions are allowed to the aforesaid extent. Rule issued in each of the petitions is made absolute accordingly. There shall be no order as to costs.

Petitioners are directed that pending the proceedings before the competent authority, the petitioners shall use the lands in question for no

purpose other than that of agriculture and that they shall not part with the possession of the lands in question in any manner whatever.

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